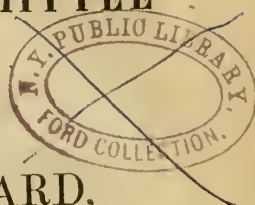


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REPORT
OF THE
MINORITY OF THE COMMITTEE

OF THE
PRIMARY SCHOOL BOARD,



ON
THE CASTE SCHOOLS

OF THE
CITY OF BOSTON;

WITH SOME
REMARKS ON THE CITY SOLICITOR'S OPINION.

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A. J. WRIGHT'S STEAM PRESS,
NO. 3 WATER STREET.
1846.

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NOTE.

THE following is the Report of the Minority of a Committee appointed by the Primary School Committee of Boston, on a petition of sundry colored citizens, praying for the abolition of the separate schools for colored children, and for their admission into the Common Schools. A motion to print it with the report of the Majority of the Committee, was negatived. It is therefore now printed by individual members, who believe the fair and proper course would have been, to have directed the printing of both reports, instead of one only.

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MINORITY REPORT.

The Minority of the Committee to whom was referred the petition of sundry colored citizens to abolish the distinction now existing with regard to colored children, and admit them into such schools as may be nearest their places of residence, having been unable to unite with the Majority, in the conclusions they have reached, and in the course they recommend, deem it necessary to submit their views in a separate Report.

WHATEVER may have been the origin of our Common School system, its present existence is rendered indispensable, by the nature of our political institutions. The primary power in the State, the source of all political authority, rests with us, in the whole body of the people. Their will, is the supreme law, and they are fully competent to determine the policy of the State, to alter or change their system to any extent, or in any manner they may deem right and proper.

Hence the necessity of general education, and hence the welfare of the whole fully harmonizes with the highest interest of the individual. The doctrine that it is the duty of the State, flowing from these circumstances, to educate its rising members, and that it is the correlative right of every child in the State to receive its education at the cost, and under the direction of the community, is established with us, as firmly and undeniably, as any principle or policy can ever be established. Many other considerations, which go to show the utility and advantages of the Common School system, might be adverted to and enlarged upon, if it were thought necessary, in connection with the subject under consideration; but we rely upon those before mentioned for general assent, and as sufficient for the purpose in view and the present occasion.

Our Common Schools, then, are common to all ; and each and all are legally entitled, without let or hindrance, to the equal benefit of all the advantages they may confer—as common to each and all, as the public highways, the courts of law, or the light of day. It is the peculiar advantage of our republican system, that it confers civil equality and legal rights upon every citizen—that it knows no privileged class, and no degraded class—that it confers no distinction, and creates no difference, between rich and poor, learned and ignorant, white and black ; but places all upon the same level, and considers them alike entitled to its protection and its benefits.

The power of School Committees, we consider to be limited and constrained by this general spirit of our civil policy, and by the letter and spirit of the laws which regulate our Common School system. They are to execute the duties devolving upon them in strict accordance with the intent of that system, and for the purposes only, for which it is established and sustained. Any course on their part which does, or which tends to counteract, restrict or limit, to any individual or class, the advantages and benefits designed for all, must be considered an illegal use of their authority, an arbitrary act, and exercised as illegal and arbitrary acts usually are, for pernicious purposes. These premises will receive, we presume, general assent ; and we propose to apply them to the question before us, and be governed by the conclusions they may reach.

This Board has decided, that the children of colored parents shall be excluded from the schools generally, and shall be sent to separate or caste schools, into which no other than colored children shall be admitted. In this instance, therefore, the usual and necessary course, pursued with respect to other than colored children, of admitting them into schools nearest their residence and most convenient for them, has in the case of the colored children been departed from and overruled, for the purpose of classing them together, obliging them to go by themselves, and excluding them from school intercourse with all others. For what purpose this anomaly exists, we do not now inquire, but we will hereafter advert to it.

The authority of the School Committee to do this, is denied

by the petitioners, and they represent the practice as a grievance that should be abolished.

The question which first arises is ; have the School Committee any right or reason to establish such schools, and separate the children of the community into classes, to decide that the children of the colored people shall go by themselves exclusively, or that the children of Irish parentage shall be excluded from all others and go by themselves—or the children of the poor in like manner? Shall any or all of these be selected, each from all, sorted out and confined to separate schools?

If there is authority to do this in one instance, or to any one portion of the community who, in the exercise of our discretion or caprice, may be designated as a class, differing from others in some respect or circumstances, it seems clear, there is in all the cases supposed.

(We apprehend, if this principle should be carried out and applied to other classes or portions of the community, it would inevitably destroy our present system of public instruction, and leave us to deplore the ruin of the Common Schools, the best and noblest legacy of our pilgrim fathers.

On the point of legal authority to exclude colored children from the common schools, and confine them to separate schools, the Board have the opinion of Richard Fletcher, Esq., given at the request of the School Committee of Salem, respecting the legality of separate schools for colored children in that city. . This opinion is full and explicit, and it wholly denies the right of the School Committee of that city to make the distinction on the ground of color, then in practice there, as now in this city.

It is contended, however, that this opinion, which is admitted to be correct respecting the separate schools of Salem, where the city is divided into territorial districts, is of no authority when applied to Boston, which has no territorial boundaries to its school districts; that though, for all purposes except this of separate schools, we have eighteen districts, with as many organized district committees, yet we have but one district in law, because we have failed to establish territorial lines around our districts, and therefore, taking

advantage of this circumstance, we avoid the obligations of the law and are not violating its requirements. Thus, what is law in Salem, is not law in Boston, because the eighteen districts in Boston become one district, and the one district becomes eighteen, to suit the convenience of "our peculiar institution" of colored schools, but for no other purpose.

The assertion, that Mr. Fletcher's opinion is not applicable to the separate schools of Boston, is not true. The whole scope and force of his reasoning from beginning to end, as well as the terms in which he states his conclusions, show that his opinion is entirely applicable to the case where districts do not exist. He nowhere alludes to their existence in Salem, although his attention is called to them in the statement submitted to him, nor draws a single inference therefrom. He could not say that his conclusions are inapplicable to this city, without taking back every line and word which he has uttered. No better summary of our views upon this question can be made, than by adopting the following language from his opinion.

"The principle of perfect equality, is the vital principle of the system (our free school system.) Here all classes of the community mingle together. The rich and the poor meet upon terms of equality, and are prepared to discharge the duties of life by the same instructions. It is the principle of equality, cherished in the free schools, on which our free government and free institutions rest. Destroy this principle in the schools, and the people would soon cease to be a free people.

"In view of these principles, could the School Committee exclude any particular class of *white* children from the free schools, and provide for them a distinct and separate school? Could they, for instance, exclude the children of mechanics and laborers, and confine them to a separate school distinct from other classes? The School Committee have the general charge and superintendence of the public schools. But to make such a distinction as is stated, would not surely come within the meaning of "general charge and superintendence." It would not be "superintending," but destroying the vital principles of the system.

"The course of legislation I believe to be in perfect accord-

ance with these general principles. In 12 vol. Pick. 213, Perry vs. Dover, it was decided that certain individuals cannot be selected and set off by themselves into a district. The decision of this last point bears directly upon the point under consideration. It appears to me, that there is no law, adjudication or principle, which would authorize a School Committee to exclude any class of *white* children from the free schools, and restrict them to distinct schools provided for them.

"But the question proposed to me is, can the School Committee of Salem exclude the colored children from the free schools, and restrict them to a distinct school provided for them exclusively? I can answer this question very briefly, by saying, that neither the constitution nor the laws of this Commonwealth, make any distinction between a colored person and a white person. It may be said that the free school provided exclusively for colored children is equally advantageous to them. I think it would be easy to show that this is not the case. But suppose it were so, it would in no way affect the decision of the question. The colored children are lawfully entitled to the benefits of the free schools, and are not bound to accept an equivalent. Except in the case of taking property for public use, no man can be compelled to relinquish what belongs to him, for an equivalent. Every one must have his own, unless he consents to relinquish it."

The whole argument may be stated thus. The colored man, as any other citizen, has the right to send his child to the nearest school, subject only to restrictions for good and lawful reasons. But his race or his color is an unlawful and inhuman reason for restraining his right of choice; for our constitution and laws have everywhere repudiated all distinctions of citizens into classes, on this, or any other ground, and have pronounced all possible reasoning in support or justification of such distinctions insufficient and dangerous.

In this case, however, as in most others, where arbitrary power is injuriously exercised, an attempt is made to justify the practice by the assumed necessities of the case, and to palliate it on the ground that no injustice is done to, and no grievance is sustained by, the complaining parties, but that it is

better for all, but more especially is it for the good of the colored children, that they should be educated by themselves, whereby, it is contended, they are much more rapidly advanced than they possibly can be, by attending the schools with the white children. 'This *surprising fact* is accounted for, if we understand aright, by the peculiarities of the colored race. Inferiority is by no means to be inferred from this arrangement, no sense of degradation is excited by it, but it is precisely the one of all others best adapted to promote their self-respect, advance their mental and moral development, and elevate their civilization !

Whether these views are current in the community, and are relied upon to exclude the colored people from churches, lyceums, theatres, and all other places where the white race "most do congregate," we do not know, but it is to be feared this comfortable view of the matter has not yet reached so far. It certainly was not held to be the reason, only a few years since, for expelling them from the cabins to the fore-decks of steam-boats, from the first class to the jim crow cars, and for various other like testimonials of *brotherly regard* on the part of the *superior* towards the inferior race. The most sagacious, certainly, if not the most profound discovery in political science, is due to our own time, and to our own country. This discovery, and the indefatigable genius which solved the problem of an indefinite extension of the area of freedom, by the enlargement and perpetuity of slavery, must both, in our humble judgment, give place to the new light in mental philosophy, which breaks forth from Jim Crow schools, and the ingenuity which proves *them* the most effective means for elevating the colored race.

The assumption that these separate schools are not unjust and grievous to the complainants, we consider wholly unfounded. Is there no injustice perpetrated ; is there no grievance inflicted, by an arrangement that compels the colored residents of South, or East Boston to send their children to Belknap street, while the other children in the same neighborhoods, are not, perhaps in a single instance, obliged to go more than a quarter of a mile ? To compel the colored children of those parts of the

city, between the ages of four and seven years to go to Belknap street, or no where, is a practical denial of their right of attending school at all.

It may be said, and whether truly or not, we do not know, that there are no colored residents in South Boston or East Boston. But if such be the fact, the difficulty is not obviated, it is only changed to the other horn of the dilemma,—for if they wish to avail of public schooling, they are deprived of a choice of residence, and must move out of the city as some have actually done for this purpose principally, or they must, as most of them are obliged to do, locate themselves in the vicinity of the colored schools, no matter what may be the character of the neighborhood, or how expensive, inconvenient or disadvantageous, in other respects it may be.

It is common enough to hear the assertion, “they are a degraded race; they always have been so; and they always will be so.” Without inquiring whether “the wish may not be father to the thought,” it may be admitted that as a class they may be somewhat degraded;—that is to say, the degradation which ignorance and severe poverty are apt to produce, they are peculiarly liable to. In addition to these however, they labor under an influence particular to them alone, and far more active to produce degradation than both ignorance and poverty combined. That repugnance or prejudice, or by whatever name we may designate it on the part of the white race, which prevents the colored people from entering into the general industrial pursuits of the community and excludes them from the Schools, Lyceums and Colleges; this influence it is, which, pressing for ages upon an odious and ignorant minority, white or black, will undoubtedly produce degradation, and furnish ample cause for the condition of the blacks among us.

Notwithstanding this, however, there are always individuals of them, whom no candid man will, in any just sense, consider as degraded—individuals who by the force of intellect, or other favorable circumstances, have gained for themselves, in spite of the adverse circumstance of color, a character

which no man need be ashamed of, but which all must respect.

Is there no self-stultification practiced by us, is there no iniquitous hardship inflicted upon him, to say to such a man, we have only the standard of color to class you by? We know nothing of intellect, or morals, or respectable standing, as applicable to you or to your children. No matter if you do live next door to an unexceptionable school, and two miles from the poorest school in the city, you must go to the poorest school—your children must attend these schools, and be subjected to the influences which there prevail, bad and evil though we know them to be:—and although the probability, not to say the certainty, will be, that you cannot, by this necessity we lay upon you, hope to transmit to your children your manly and irreproachable character, but must feel, that they will be dragged down to the degraded level which the mass of your race occupy, yet, we cannot help it—we must conform to our rules which know nothing of you, except your color.

If you are aggrieved and wronged you can appeal to the Law; and the Courts, if not biased as we are, by popular opinion, may redress your wrongs. But we don't advise you to go to Law and appeal to the Courts, for the expense is great, probably quite beyond your means, and the result, is at best, uncertain. If such an offence, coupled with the cool assurance of his *christian* brother, that the poor man may appeal to law, is not rank enough "to smell to Heaven," we can imagine none that is. So long as such a course is pursued towards the colored people, we cannot doubt they will be sufficiently degraded to satisfy the most inveterate hater of the race.

When we deny that it is as advantageous for the colored children to attend the separate schools, as it would be, to be educated with the white children, we do not mean to be understood, that under other circumstances than exist here, they might not receive equal educational advantages from separate schools—but under the circumstances which do exist, we do deny, that they can receive equal benefit from separate which

they would from the common schools. They are a small minority, less than two per cent of our city population. They have been generally, and perhaps now are by the majority, considered, as a hopelessly inferior race, while some even contend that they partake but little of the attributes of humanity, and far more of those of the brute creation. Their character and condition it is said by such, is what it is, by the decree of Providence, irrespective of other influences.

The natural consequences of this heresy, and of such views, have operated upon the colored people with a crushing severity. It has pressed upon them, upon their moral and intellectual character, their efforts and their condition, with a uniformity as all pervading and as effectual to keep the *mass* of them down, as the force of gravitation upon the human body is, to fix it to the earth.

It is, we believe in obedience alone to this public opinion, and on this ground only that these caste schools can be defended or excused—the whole necessity of the case, “hath this extent,” and no more than this.

(With such influences operating upon these schools, and to which they minister and tend greatly to perpetuate, what can be expected from them? The inevitable effect of such influences upon the energies and labors of the teachers, committee and children, must necessarily follow, and the want of heart and faith in the work, will enfeeble and paralyze the school and all connected with it. Where nothing is expected, but little will be attempted, and less accomplished.)

Our reports will pass them by with the usual remark, “not much can be expected from this school, but it is believed to be in as good condition as at any former period, and as good perhaps, as can be expected from this class of children.”

Our large professions, and our *devotion* to the principles of liberty and equality will not probably permit us to abolish these schools, and turn the children adrift, but otherwise, we can see no sufficient motive for continuing them. The average attendance for six months of one, was 10 1-5. Its appearance is decidedly consumptive, and we should judge it would soon save us the necessity of any formal action, by a natural

death from that inveterate disease. The other, for the same period, averages 34. Both together, do not equal the average attendance of one of the white schools. The cost of schooling the colored children is therefore more than double that of the same number of white children, and the result in education conferred, is in an inverse ratio to the expenditure. An examination of these schools, is a penance, which even the advocates of the system, ought not in common charity to be subjected, and we think the former committee of the school in Belknap street, who we were told by the teacher had not examined it but once for two years, should be held fully excused, for what, those who judged without personal knowledge, might consider culpable neglect.

(If any fears are entertained that the abolition of these schools would be detrimental to the colored children, we are constrained to say we do not participate in them. We consider them a disgrace to the city, when viewed in the beggarly amount of education they confer, but a still greater one for the prejudice against color they countenance and lend their efficient aid to perpetuate.)

We would not undervalue the small amount of education they confer, for we do not admit the adage "a little learning is a dangerous thing," but believe on the contrary, that even a little is a great blessing.

But who of us would consent that his children should take the little these schools confer, at the price of inferiority and unfitness to associate with the mass?

This question is frequently considered as affecting only the colored people, and if they, or the majority of them submit to the present arrangement, our duty in the premises is discharged. We do not assent to this view of the matter. A wrong act or a wrong policy is seldom, if ever, confined in its results, to the immediate individual upon whom it is inflicted, but its influences are of much wider extent. We deem it morally injurious to the white children, inasmuch as it tends to create in most, and foster in all, feelings of repugnance and contempt for the colored race as degraded inferiors, whom they may, or must, treat as such. This is the standard

of morals and humanity which these schools teach our children, who are thus led to attach to color alone, sentiments and emotions, which should arise, if at all, only in view of character.

The only security we can have for a healthy and efficient system of public instruction rests in the deep interest and vigilant care with which the more intelligent, watch over the welfare of the schools. This only will secure competent teachers, indefatigable exertion, and a high standard of excellence—and where the colored children are mingled up with the mass of their more favored fellows, they will partake of the advantages of this watchful oversight. Shut out and separated, they are sure to be neglected and to experience all the evils of an isolated and despised class.

(One of the great merits of our system of public instruction, is, the fusion of all classes which it produces. From a childhood which shares the same bench and sports, there can hardly arise a manhood of aristocratic prejudice, or separate castes and classes. Our common school system suits our institutions, promotes the feeling of brotherhood and the habits of republican equality. To debar the colored race from these advantages, even if we still secured to them equal educational results, is a sore injustice and wrong, and is taking the surest means of perpetuating a prejudice, that should be deprecated and discountenanced by all intelligent and christian men.)

Over a large portion of our country the colored race are subjected to the terrible condition of domestic servitude. In other portions, though declared free, yet Statute Law in some, and popular opinion in others, render them only nominally so. In the State of Ohio their testimony is prohibited in Courts of Law, and they are thus virtually outlawed. In the City of New York a license to drive his own truck for hire, is not permitted the colored man. In the proverbially religious State of Connecticut, and in the no less proverbially democratic State of New Hampshire, but a few years since, private schools for colored children were broken up and scattered by mobs, composed of "gentlemen of property and standing," and so general was then and there, the prejudice against the

race, that the Law was powerless for protection, or for remedy.

Are we shocked at the barbarity which these few samples of the many iniquities practiced elsewhere upon the colored man exhibit? Let us beware then how we cherish a principle that leads to, and sanctions these results from which we recoil; for the most that can be claimed in mitigation of our position is of degree only, and in the smaller extent to which we reduce the principle to practice. The same reasons are relied upon to excuse the atrocities we have alluded to, which with us, are the true causes, that demand the separate schools.

It is the especial province of School Committees to direct and aid the rising generation in education and morals, to guide and cheer the youthful mind onward and upward towards a full and manly maturity and self-respect. In view of this high aim, can this Board consistently give its aid and sanction to an arrangement that necessarily tends to impair these objects towards a portion of their charge, and can it rightfully thus minister to the spirit which loudly proclaims the existence of degradation and demands its continuance?

We think this spirit is sufficiently modified and weakened to render it no longer necessary or excusable, if indeed it ever were necessary, to obey its demands, or be governed by its requirements. But even if the fact were not so, we, whose province is the care of public instruction, are bound to remember that it is our duty to resist and lend our aid to correct, not to countenance and follow, popular delusions wherever they may lead.

This City, is now we believe the only place in this Commonwealth, where any distinction whatever exists with respect to color, in the common schools.

We doubt not many members of this Board have been induced to countenance this distinction, and decide for its continuance, from the fear, that the admission of colored children into schools with white children, would cause a popular ferment, that would seriously impair the condition of the schools.

We believe this fear to be unfounded. The admission of

colored children indiscriminately with white children prevails in the schools of (Salem, New Bedford, Nantucket, and Lowell, where the general feeling respecting colored people is doubtless similar, to what it is here.) In Salem and Nantucket, the separate schools have recently been abolished, and in New Bedford, and Lowell, no distinction has ever been practiced with reference to color, in the schools. What is done in these towns, most of which have, we believe a larger proportional colored population than Boston, we think may afford some evidence that similar results may reasonably be expected to follow here. We will offer such evidence as we have been able to obtain with reference to this subject, from persons officially connected with the schools in those places, by which it will be seen* that separate schools cannot be justified on the ground of expediency, that they are not advantageous to the colored people, but that they were quite the reverse in those places.) In two of the Primary schools of district 15 in this City, four colored children have attended at different periods of time during the past few years. Our connection with those schools during the whole time of their attendance enables us to affirm, that no difficulty occurred in consequence, and no notice was taken of the circumstance except in a single instance. One third more than the average number of the colored children that now attend the separate schools, might with perfect convenience to themselves, be distributed in twenty of the Primary schools, and average only three to each school. Considering what has occurred in district 15, who can imagine that any inconvenience or outcry worthy serious notice would arise from the admission of such a small number of these children, or of even double this number into the schools? No doubt, however, there would be some complaints if the colored children were admitted into the schools. No doubt some parents would feel aggrieved and the delicate sensibilities and aristocratic prejudices of others, might be moved—but we do doubt if we should meet as much complaint upon the admission of colored children as we now do,

* See Appendix.

respecting the admission of Irish children, which in many schools are sufficiently numerous to give tone and character to the school. That these complaints would, however, soon decline and die out, especially if the district and local committees should discharge their duty with firmness, tempered with discretion and mildness, we see no reason whatever to doubt. Nor do we suppose the immediate results to the colored children would be very marked or instantaneously apparent. Having adopted the just and true policy, we may safely trust to the fidelity with which it should be conducted, and to a reasonable time, for its legitimate fruits, and the good it will eventually accomplish.

It has been seriously urged, against abolishing these colored schools, that the grammar school committee sustain the relation of constituents to this committee—that we are responsible to them, are under their control in this matter, and that until they move or require this committee to move in the premises, we are not justified in entertaining the subject. Such reasoning however, can only serve to weaken the cause it is intended to sustain. The powers and duties of the two committees are, it is believed, entirely distinct and independent, neither having any control or check over the other, or over the schools placed within the sole and particular charge of each.

Much reliance is also placed upon the fact that some forty or fifty years since, the colored people of the then town of Boston, petitioned for a separate school for their children, which, after some demur on the part of the town, was granted, upon condition of their contributing towards its support, by paying a small monthly sum for each child attending. From this circumstance, a charge is made against the present generation of colored people, that they are capricious, inasmuch as they now wish to abolish the schools their fathers sought to establish, and they are gravely rebuked and taunted, as being “unworthy descendants” of worthy sires; as dishonoring the memories of the Primus Hall, Prince Saunders, and other magnates of a “*glorious ancestry*.” They do not, it is said, moreover, really wish, or expect, the change they now petition us to make, but they have suffered themselves to become

the dupes and tools of others, and at their instigation complain of an arrangement which once they were anxious to obtain, solely for the purpose of making party capital for their instigators, and of furnishing a subject of agitation for another purpose. The want of justice which characterizes the latter of these two charges against them, and the contempt for the petitioners which such an imputation implies, is too open, gross and palpable to require farther comment, and we pass to the former, the complaint of capriciousness.

The condition of the colored people fifty years since, when they had just escaped from the condition of slavery, and the universal feelings and opinions of the white race respecting them, have both, now become very much modified and changed. That, which was then a gain and an advantage, under circumstances which then existed, is now a grievance under the circumstances which now exist. To permit a colored man to ride in a stage coach instead of compelling him to go on foot, was an advantage once, but it would be a grievance now to compel him to travel by stage, when he can avail himself of a rail-road car for that purpose. Then, they were low in the scale of civilization and morals in comparison with their condition now. Then, they were universally considered as too inferior to admit of any decided advancement. Now, many of them furnish abundant proof of the fallacy of such an idea. Then, in Boston, they were fair game for the dissolute, the thoughtless, and the wanton, to break all sorts of rude and unfeeling jests upon, and brutally to abuse and revile whenever they assumed any other character than servant of servants, and humblest of the humble. Now, though something of this may perhaps still linger among us, it is no longer fashionable, or even reputable, to give it any very open or decided manifestation. (To escape intolerable persecution and contempt, they were once glad to be herded together by themselves.) To partake of advantages they can now peacefully enjoy, they ask that their undoubted right to do so, may no longer be withheld.

It is to be regretted that on this question, there seems to prevail a proneness to raise false issues, rather than to acknowledge the true issues, and manfully meet them. Far-

fetched and futile reasoning, wholly irrelevant, is relied upon for justifying the separate schools, while the true causes appear to be studiously avoided and kept out of sight. But no attempt to mystify the subject, no effort to warp the judgment by investigations or assertions respecting the discrepancies and characteristics of different races, will avail to cloak the real causes that demand these caste schools—least of all, can a philosophic theory more fanciful than sound, be relied upon in this matter, to contradict the plainest deductions of common sense and the uniform testimony and experience of daily life. That the defence of these schools should be mainly placed on the ground, that it is solely for the good of the colored children, that they are confined to separate schools, is certainly matter of great surprise and astonishment.

Considering also the character and condition of our separate schools, as well as those which have existed elsewhere, the assertion that they produce for the colored children better educational and moral results, than can be expected for those children from the common schools, is truly no less astonishing.

The advocates and abettors of slavery, driven from every other pretext to justify that institution, now unhesitatingly proclaim its peculiar adaptation to the negro race, and the great advantages it confers upon its victims, over any good that can possibly accrue to them from a state of freedom.

It is to be hoped that the philosophy of *morals* which slavery teaches, may not be established as our guide, by the Primary School Board of the city of Boston, and the same fiction unblushingly put forth, and the same necessity assigned for these caste schools, that are urged in defence of the "peculiar institution;"—for if primary instruction with us, is to take the same course that our political and ecclesiastical arrangements and influences have, northern subserviency, and southern *principles* will both be complete, and the rising generation can hardly help being thoroughly imbued with the moral and political code of the nation, as "established in church and state."

It is so notoriously true however, and so palpably apparent, that the colored children are shut out of the common schools

solely by reason of the objection on the part of many of the white citizens, to have their children attend the same schools with the colored children, that it is entirely superfluous to dwell on this fact. The negro pew, the Jim Crow car, and the caste school, unquestionably owe their origin to one and the same cause, and a labored effort to show this cause to be an honest regard for the best interests of the colored people, should meet with the contempt which is due to gross and deliberate misrepresentation.

We consider the position of this Board in relation to these schools to be entirely wrong and altogether unjustifiable. The claims of humanity, the demands of justice, and the requirements of conscience, all, call earnestly and distinctly, for an abatement of this evil.

If we have succeeded in making ourselves understood, it will be seen that we oppose any distinction whatever being made on the ground of color or race, and that all applicants for admission into the primary schools, whether white or black, should, according to the rule for white children, recently adopted by this Board, be "especially entitled to enter the school nearest his or her place of residence."

Inasmuch however as decided and conflicting opinions exist, with regard to the best method of bringing about this result, some deeming it more advisable to adopt gradual means for abolishing these caste schools, we have judged proper to offer the following VOTE for consideration.

VOTED, that such of the colored inhabitants as may prefer sending their children to the separate schools, shall be permitted to do so, and that those who may choose to send their children to the other schools nearest their place of residence shall be entitled so to send them, and that it is the duty of the local committee to grant permits in conformity with this rule.

This course if taken, will no doubt satisfy those of the colored people who feel aggrieved by being obliged to send their children to the separate schools, or forego all advantages of public instruction,—and it will relieve the Board from a troublesome question, which will probably be continually pressed upon its consideration until some substantial change is made; for it cannot be supposed that so gross an outrage upon

the rights and interests of even the lowest in the community will be quietly submitted to. If, as is confidently asserted, none of the colored people wish for or will accept any change, the schools will remain precisely as they are now, if the vote is passed, and no harm certainly will be done.

If we might be permitted, with all respect, to offer a single suggestion to those who labor to retain these caste schools, which are an offence to humanity, and an obstruction in the path of progress, snail-paced though it may be, of the colored race, it would be this,—to examine closely and estimate fairly, the motives and reasons that impel them to this labor.

If this should be done with a singleness of purpose, and a manly determination to abide by the result of such an analysis, we cannot doubt the decision will be correct, that it will meet the public sanction and what is better, that of an approving conscience.

We have trespassed upon time, and perhaps have exhausted patience, by our inability to be more brief and less tedious, notwithstanding we have rejected much that pressed for utterance, and avoided all desire to multiply words. Towards those who entertain opposing views, and who advocate a totally different course, we claim to entertain no other, than respectful regard. And while we have characterized the position taken, and the reasons put forth to sustain them, as we think only fairly and truly, others perhaps may deem, that we have been uncharitable, unjust, and fanatical.

For such discrepancy, there is no remedy, save what may be derived from the exercise of candor, charity and good sense, which we hope may always abound in our deliberations. However otherwise we may be judged, we cannot admit that the convictions we have uttered and the positions we have endeavored to sustain, are justly liable to the charge of party cant, or of sickly sensibility towards the colored race, but may more properly be considered as prompted by self-respect, and the result of only a common regard for justice and humanity, while they are amply supported by every consideration of reason, and every dictate and duty of christianity.)

EDMUND JACKSON.

H. I. BOWDITCH.

APPENDIX.

THE following letters from highly respected and efficient members of the School Committees of Nantucket, New Bedford, Lowell and Salem, are appended, to show that no injury is experienced by the Schools in those places in consequence of educating the white and colored children together. They show also, what was indeed sufficiently apparent to every candid mind, that colored children can be educated *quite as well* to say the least, in the common schools as they can be in caste schools, and thereby prove that the theory recently adopted to sustain the caste schools of Boston has no foundation whatever in fact.

We not only find colored children in the High Schools of New Bedford, Lowell, and Salem, but, what is more to the purpose, among the best scholars, and in one instance, *the* best in the school. If the caste schools of Boston, containing more colored children than are to be found in all the schools of Nantucket, New Bedford, Lowell and Salem put together, have ever yet fitted a single scholar for the High Schools, we have yet to learn the fact.

NANTUCKET, March 27th, 1846.

EDMUND JACKSON. Boston :

Sir,—In answer to your first question, ‘What is the proportion of colored to white children in our public schools,’ I will state that we have about twelve hundred and sixty children in our public schools; of these thirty-seven are colored, nine of whom are in the Grammar Schools, and the remaining twenty-eight in the Primary Schools.

Second: What advantage or disadvantage from separate schools for the Blacks or from their going to the same schools as the Whites? / The disadvantage to the Blacks in the separation was that their parents believed it illegal and unjust, hence the attendance of the children at school was irregular, and their progress in study slower.)

Admission to the same schools as the Whites excites their

ambition, and the year that we admitted them to the Grammar Schools, (we had about fifteen through the year,) their attendance was very regular, and their improvement much greater than when in the Black school.) No disadvantage resulted to the Whites during that year, and we apprehend none for the future.

Third: Were the colored people desirous of having their children attend with the Whites?—Yes, very.

Do they send their children to school now more generally than formerly to the separate school?—Yes: at the Black school there were twenty-seven; in our public schools we have now thirty-seven, and there are about ten more, now in private schools, who will probably be admitted on the next entrance day.

What were the objections of the white citizens to the admission of Blacks to the same schools as the Whites?—The objections of the whites were that they were negroes, offensive to the smell, and that the white children would be withdrawn from the schools in consequence of their admission.

Were any withdrawn?—Yes: fourteen were withdrawn from the South Grammar School, a school of one hundred and fifty scholars, to which five colored children were admitted; but on the same day twenty-two new scholars entered, which accession made the school larger than before. In explanation of my reference to a time when colored children were in our Grammar Schools, I will state that three years ago the School Committee admitted those colored applicants that were qualified to a place in the Grammar Schools. A portion of the inhabitants were displeased with this, and the next year a Committee was elected and instructed to expel them; this brought on a severe contest, in which much feeling was shown. This year the election of the School Committee turned on this question alone. It was the test question, and resulted in favor of the free admission of the colored children to the public schools. From this long contest and the feeling engendered by it, we expected some difficulty upon the admission of the Blacks; but we have met with none; the colored school is broken up, and the children are admitted into all our public schools, with the same freedom, and on the same ground as the Whites. No scholar has left any other school than the one above mentioned, which was in a district where the prejudice against color was strongest. We now think the matter settled, and do not expect farther trouble from this colored question.

Respectfully yours,

JOHN H. SHAW.

NANTUCKET, July 4th, 1846.

DEAR SIR,—Since I wrote you, I have found leisure to visit all the Public Schools in town, and with entire confidence can now state that the admission of the colored children has in no way injured them. I have been on the School Committee seventeen years with two intermissions of two years, one of them the last two years, and at no time have I found the Schools as a whole, in better condition. Early in February last the present Committee took charge of the schools, and decided to admit the colored children; there were then twenty-seven of them attending the colored school, there are now fifty in the various public schools, well behaved, orderly children, not a single complaint has been made to the Committee thus far from any teacher respecting any one of them. On the first of February, there were in all the public schools in town, one thousand two hundred and eighty-one children; on the first day of July there was, one thousand three hundred and sixteen, showing an increase of thirty-five, and this increase has all been in the south and west districts, where the colored children are; while in the north district where there are but two colored children, although there are four schools with three hundred and ninety-seven scholars, yet here we find less than there was in February by twenty-four, so that the increase in the schools where the colored children are has been fifty-nine. This change is not to be ascribed to the admission of the colored children, but it shows that the schools have not been injured in the estimation of the parents. I have not the power to give you the exact number of scholars in the private schools, at the same periods of time, first February and first July, but can say positively that instead of an increase as stated by Mr. Jenks, the number is much diminished, one school of seventy, and one of forty scholars has been given up, and I am very confident that there are not as many children in the private schools now by seventy or one hundred as there was the first of February.

Respectfully yours,

JOHN H. SHAW.

NEW BEDFORD, March 27, 1846.

SIR :—There have been colored children in our High School, of which I am the master, during nearly the whole time since its first establishment, a period of some eight or ten years. My pupils are from all classes in the community; many of them from families of

the highest respectability. I have had no instance of any difficulty arising from the admission of colored children. They have uniformly been treated with courtesy and kindness by the other scholars. I recognize no distinction grounded on color, and so far as my observation goes, my pupils do not. The number of this class in my school has been small, and still is. There are four at the present time. I have noticed no difference in the aptitude to learn between them and the whites. There is no objection so far as my knowledge extends, to the method practiced in our schools, and no difficulty that I am aware of, has ever arisen from it. Immediately after the last general examination of our schools, a gentleman of the committee, remarked, that throughout the schools, the colored children appeared quite as well during the examination as the white children.

I should think that the average attendance of this class in proportion to the whole number belonging to the schools, was equal to that of the whites, from the same condition in life.

I am of opinion also, that they send their children as generally as the white population. I have no facts however, from which I can substantiate this opinion; it is with us as with other large towns; many children probably are out of school, but no more colored children, in proportion to their number, than whites.

Your Obedient Servant,

JOHN F. EMERSON.

NEW BEDFORD, 4 mo. 10th, 1846.

RESPECTED FRIEND:—The number of colored children in our public schools is about ninety. *Four* of these are members of the High School. *Forty* are in the Grammar Schools. About *twenty-five* in the intermedial, and about *twenty* in the primary schools. I cannot give the average attendance of the *colored* children from record, because we do not know any such distinction in our record of the attendance. My impression is, that their attendance would not be quite so good as the average attendance of the schools,—but this is only an opinion,—if true, it may be sufficiently accounted for, in that they are mostly in a condition in life where their services must be oftener required at home.

I have known *one or two* instances during the last three years, where parents have sent to the teachers a request that their child

should not be required to sit at the same desk with a colored child. Such a request, when it could be done without attracting the attention of the school, has been silently complied with. Beyond that I have heard no complaint, no objection to the present system. The white children do not object to associate with the children of color, or ill-treat them, to my knowledge. On the contrary some of these children are general favorites in the schools where they are most numerous. I do not think the number of colored scholars—ninety—is quite their proportion according to population,—though it is probably their full proportion when compared with the attendance of the white children in the same condition in life.

These children are interspersed in *twenty-one* of our *twenty-eight* public schools, varying in number from *one* to *fourteen* in a school. The latter number is found in the boys' Grammar School on Bush street, which is without question one of the best of our public schools. We may safely say, then, that their predominance in that school has not had *much* tendency to lower the character of it, for with them, it stands, at least, as high as any of its class. And in closing I will venture to express the opinion, that we have much less difficulty in managing the schools as we do, with entire disregard to color, than we should find in attempting to establish separate schools founded upon such a distinction.

With respect, thy Friend,

THOMAS A. GREENE.

LOWELL, April 14th, 1846.

MY DEAR SIR,—In answer to your enquiry, whether colored children attend the public schools of Lowell, and if so, how many, I state—That the public schools of Lowell, of every grade—primary, grammar, and high—are open to colored children, on the same conditions as to white children. There is not, nor ever has been, theoretically or practically, any distinction in this respect whatever. The colored child, as the white, attends the school that happens to be located in his neighborhood, and no fault is found or questions asked. He has the same right to present himself for admission to the high school, and if, upon examination, he is found to have the requisite literary qualification, he is admitted there, on an equal footing with his white brother.

As to the number of colored children that attend the public schools,

I have not the means of knowing. It is necessarily small, from the fact that the number of colored families in Lowell is unusually small; but, few or many, they are all invited and urged to participate in the benefits of the common schools. In one of the grammar schools, as I am informed by the chairman of the school committee, a family of colored children were not only among the best scholars, but were the greatest favorites in the school. I know of only one instance of a colored child in the high school, but no others have applied. It is free to all, and the colored child has only to qualify himself for admission, and he enters. This is the course that has been pursued in Lowell from the beginning, and its propriety has never been questioned. The most of the children of the rich and the poor in Lowell, attend the public schools, and I have heard of no one's delicate sensibilities being shocked by the course that has been pursued.

Very truly, I am your friend,

ELISHA HUNTINGTON.

SALEM, July 6, 1846.

DEAR SIR,—I fear that I shall not fulfill your expectation in answering the questions you propose. Indeed I have no data, which would enable me to answer a portion of them, and have no means of obtaining them except by visiting every school in the city.

You will allow me, then, to be very brief, and to say, that the average of scholars in attendance at the colored school at the time of its discontinuance, was about twenty-three. What the present number is of colored children in the schools, I know not; probably about the same as formerly.

I have not heard of any difficulty in the schools in consequence of the admission of colored children. If any difficulty had occurred, I think I should have known it, for I have the supervision of the female grammar schools, in which difficulty on that subject would be most likely to arise.

I am not aware that any white children have withdrawn from the public schools in consequence of the admission of colored children. It is true there was a strong sensation on this subject in this community; but I have not heard of the withdrawment of any of the white children.

What our citizens may do hereafter in regard to a re-establishment

of the colored school, I know not. Doubtless there are some, who would favor such a movement; and yet, I think it will not be done. The colored children, as a general thing, behave well in the schools where they are, and are making good progress in their studies, so far as I have the means of knowing; and I presume the present arrangement will not be disturbed.

I am aware that the above is not very satisfactory, and perhaps I may be able ere long to be more definite. If I mistake not, there is but one feeling in this community in regard to the education of colored youth, which is, that they should have the same privileges as other children.

With much esteem, yours,

J. MANN.

Since the foregoing Report was submitted, the City Solicitor has been consulted on the legality of the separate schools, and his opinion sustains them. This opinion, it was thought, required to be noticed, and a member of the legal profession has furnished the following

REMARKS ON THE OPINION OF THE CITY SOLICITOR.

WE were among those who mourned the death of the late able City Solicitor, John Pickering, Esq. In common with all who have borne his name, he had one marked characteristic, pre-eminently fitting him for public life—an unbending integrity. In this country we have so small a number of such men, that we can ill spare a single one. In reading the “Opinion” of his successor, we must either grieve at the contrast, or wonder and grieve both, at the strange sight of a man being selected for the office, so little imbued with a knowledge of our laws or the spirit of our institutions.

It is a good sign, however, of the advance of public opinion, that the School Committee find it necessary to call in some other official to share the infamy with them. The post of per-

secuting the colored children, of sacrificing their rights to a cruel and eminently vulgar prejudice, becomes too hot for them to maintain it alone. Our only regret is that this necessity should have occurred at a time when it was possible for them to procure the aid of so respectable an office as that of the City Solicitor. It has long been one of the avowed evils of our city and town organizations, that some important powers are necessarily committed, at times, to very small men. This has been flagrantly the case with our ordinary School Committees, and recent events have turned much public attention to the fact—a lurking consciousness of which has perhaps dictated the new alliance; in which, however, we fear the hitherto respectable legal character of the Solicitor will suffer more than the waning influence of the Committee will gain.

It is said to have been the advice given by an eminent lawyer to a friend possessed of good common sense, but not bred to the bar, who was about to accept a judicial appointment, that he should state his judgments briefly, but never risk giving any reasons for them. Our City Solicitor seems to have borne this caution in mind; through the long waste of his pages it is somewhat singular that he does not give a single reason for the conclusion he adopts in regard to the point at issue. Undisputed points are elaborately defended, but the main issue rests on his "thinks so."

For instance, the learned gentleman is careful to prove beyond dispute, what has never been disputed, that School Committees are entrusted with large discretionary powers,—that they may select books, locate school-houses, classify scholars, &c., &c.,—all excellent doctrine. He is careful also to support with appropriate decisions, the other equally new and difficult proposition, that in the exercise of this discretion they are bound to be reasonable and not arbitrary. But then comes the gist of the Committee's question—the real point at issue between the parties to this controversy—Is the provision in question reasonable in the eye of the law? Upon this point the careful Solicitor does not enlarge. He contents himself with saying, "Yes;" he does or dares not trust himself to say

why. Perhaps we could suggest a reason. We did not expect him to attempt,—certainly that would have been hard, after the entire failure of the Committee in that respect,—to show that the provision in question was expedient; that lay beyond his province. But, if his purpose were conviction, he was bound to prove, and not merely assert, that the means used to effect a result which the Committee deemed expedient, were reasonable and allowable in point of law.

The only thing which bears the shape of an argument, is the assertion that this authority, to maintain separate schools for the colored children, has been “exercised, for many years, under the sanction of some of our ablest jurists.” This, as a matter of fact, we deny. Of course the timid silence of Horace Mann is not to be taken as evidence of any such thing. We call upon the Solicitor to specify the able jurists who have deliberately given this foolish and vulgar system their sanction, in years past. It would indeed be matter of surprise and deep regret to us to think that the character of the Massachusetts bar was sullied by any sympathy with the narrow prejudice and petty views of our Boston School Committees. But allowing it to be so, certainly Mr. Chandler should be presumed to know that the careless opinions of lawyers on questions which have not much engaged their attention, or that of the public, and specially where social prejudice comes in to blind all eyes, are of little weight. Has he now to learn that for a century all the profession in England were of opinion that *habeas corpus* should not be granted, in London, to West India slaves detained there against their will? and that Hargrave and Mansfield had both to be taught the contrary by a Quaker clerk, Granville Sharpe? He has not been long in Boston, or he would not need to be told that in this very city, in this very matter of the colored people, the same point, until recently decided in the Med case (Comm. vs. Aves,) was denied by every member of the Suffolk bar, save one. Let me tell this young official that the moment the element of color mingles in any question, no confidence can be placed in any American court or church. Even Story sullied at last the lus-

tre of a long life by a decision,* the infamy of which even his large services cannot hide.

The following is the conclusion of Mr. Chandler :—" I am of the opinion, that the School Committee of Boston, under the authority, perhaps, of the City Council, have a legal right to establish and maintain special Primary Schools for colored children; and, in the exercise of their lawful discretionary power, to exclude white children from certain schools, and colored children from certain other schools, when, in their judgment, the best interests of such children will be promoted thereby."

Now we maintain that such a system of schools is illegal and unreasonable, in the legal sense of the latter word—with any other at present we have nothing to do. Of course we do not believe, any more than Mr. Chandler, that this Committee ever dreamed that in maintaining such schools, they were really consulting the best interests of the colored children. Such things are said because something must be said, and believed, if at all, only by those weak men who take print for proof.

The real question is simply this : " Have the Committee, in order to secure what they think the best interests of the children, the right to introduce into our schools distinctions utterly repugnant to the spirit and letter of our constitution and laws?" For certainly it will not be denied that in all the pages of the Massachusetts statutes there is no recognition of race or color ;—that our laws repudiate both, only submitting, from a necessity rather apparent than real, to the United States rule as to the militia.

As Mr. Chandler has not favored us with any reasons for his opinion, we must deal with the subject generally, and it may perhaps aid us in directing our remarks aright to glance at the reasons assigned by the Committee for their action. The Committee profess that the ground of the distinction they make is the difference of " race." " The distinction is one which the Almighty has seen fit to establish, and it is founded

* The Prigg case.

deep in the physical, mental, and moral natures of the two races. No legislation, no social customs can efface this distinction" which "renders a promiscuous intermingling in the public schools, disadvantageous both to them and the whites," "they should be kept distinct." "Amalgamation is degradation." This is their profession !

Of any other men, than this Committee we should be obliged to doubt whether they could believe this:—but from them, we are inclined to think that this confession of nonsense is sincere.

But, for the sake of argument, granting the whole to be true to such an extent, as justifies a separate system of instruction, then evidently a different system of laws and government, in the same proportion, would be justifiable and proper, since a large share of government is but a continuation of public instruction, telling the subject what to do and what to avoid—under penalties. The races which are so distinct as to require different training in the schools, cannot surely form a homogeneous basis for civil institutions, or allow of the same penal arrangements. England accordingly has one code for India, and another for Kent. Our laws on the contrary, negative all such distinctions; they practically assert that before the law, and in regard to such institutions as the law establishes, the differences of race, creed, complexion, and caste, melt away. The law does not undertake to establish any thing in which all may not partake. As members of a legal body, a School Committee, they should have eyes only for such distinctions among their fellow citizens as the *law* recognizes and points out. For the difference of age and sex, for regulations of health, &c., they find precedents; in acting upon these they stand within the margin of that discretion which the law allows. But when they open their eyes to varied complexion, to difference of race, to diversity of creed, to distinctions of caste, they will seek in vain through all our laws and institutions for any recognition of the spirit in which they act. They are attempting to foist into the legal arrangements of the land, a principle utterly repugnant to our Constitution. What the Sovereignty of the Constitution dared not attempt, the discretion of a School Committee accomplishes !

The races which the Legislature allows to intermarry, this sapient Committee determines, and according to Mr. Chandler has authority to determine, shall not be educated within the same walls!

Our School Committees have without doubt a wide discretion, unlimited, as Mr. Chandler asserts, by any express statute. So the treaty making power is unlimited by the Constitution of the United States. Still all statesmen worthy of the name, have held that the Executive cannot make a treaty which conflicts with the spirit of the other provisions of the Constitution; that though not limited by express terms, the treaty making power is limited by the general tenor of the Instrument, and cannot annex a foreign nation, establish monarchy, or an order of nobility. So the authority of Congress over the District, unlimited in its terms, is doubtless limited by the other provisions of the Instrument in regard to the general power of that body and of the Union. These illustrations will suffice. Such precisely is the position of the various powers conferred on subordinate bodies in this Commonwealth, School Committees among the rest. Suppose the City Authorities, in imitation of Damascus, should make a by-law that no colored person should remain on the sidewalk, while a white was passing; or like South Carolina, forbid his being out after a certain hour; or like Rome, confine one class of our citizens to a certain quarter of the city. They certainly must seek among Dr. Woodward's pupils, or among School Committees for any one who would defend the legality of such arrangements. Yet of all of them they might ask as triumphantly as Mr. Chandler and the Committee do, of their colored schools, Where are they expressly forbidden by statute?

But the truth is, before any of these arrangements are held legal, it must be shown that they do not conflict with the general law of the State. Mr. Chandler, therefore, had done but half his duty, even if he had reconciled the action of this Committee to one specified statute:—a harder task and one equally obligatory remains, to show its consonance with the whole tenor of our laws. In introducing so important an

clement into our system as the right of a legal body to recognize different "races" among our citizens, and arrange their legal rights on that basis, he is bound to show more than that the act is not forbidden; he must prove that it is allowed. From first to last, from the highest to the lowest, ours is a limited government. We are not to assume all powers that are not expressly forbidden; on the contrary, we are bound to show in each case that our authority is expressly or impliedly granted. This Mr. Chandler has not even dreamed of doing. No one of course would expect the Committee to understand, but some would have expected Mr. Chandler to see, the importance of the principle which rude and bungling hands were trying to graft among republican institutions. After the very clear light in which Mr. Fletcher has placed the whole subject in his able opinion, addressed to gentlemen of Salem, it seems almost needless to enlarge.

But suppose a case—suppose the Committee, sharing in the opinion now prevalent in England, that it is impossible to bring different sects together in any effective system of public instruction, should proceed to establish separate schools, one for infantile Catholics, a second for the Evangelical sects in short clothes; and a third for Unitarians, Universalists, and the "scattering." It might be "in their judgment best." The profession that it was so would at least be credible, consistently with their reputation for common sense; having therein certainly a decided advantage over the present case. No sane man, we presume, would contend, that such an arrangement would be legal, and within the Committee's discretion, in Massachusetts? Yet why not? There is no express provision against it. Certainly none in the school statute so ably commented on by the Solicitor. But it is nevertheless palpably illegal, because every feature of our Legislation looks such an absurd scheme out of countenance, scouts it as anti-republican, as a practical confession that a general system of public instruction by the state is impossible. In asserting its possibility, the Legislature tacitly condemns all such distinctions.

Or suppose separate schools for the children of naturalized

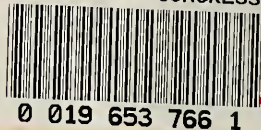
citizens: a plausible argument could be framed for their necessity, and every Native American would surely deem them best:—or a separate school for the children of church members from those of non-professors:—or, as in England, one school for the rich and professional, and another for mechanics:—or, a clearer case still:—A separate school for the children of School Committee men, they apparently requiring far more instruction than any other youths.

In all these cases we have the charity to presume that Mr. Chandler would agree with us in holding these systems utterly beyond the discretionary power of any committee, though to be sure past experience would lead both him and us to fear that many committees could be found who would think them all legal and expedient. And why would he differ from them? There is no express prohibition of them, according to him, in the School Statute, to which he confines himself in his opinion,—indeed there is no express prohibition of them anywhere. For according to Mr. Chandler and the committee, such distinctions “neither hurt, molest, or restrain,” any one, consequently do not come within the letter, as they think, of the bill of rights. But every one sees that the whole frame-work of our institutions forbids the making of such distinctions *by law*, or by any body raised under the laws. If Mr. Chandler reasons thus, will he be consistent, and go on to point out the foul spot where our law recognizes the odious distinction of color, or brands “the races” which mingle beneath its sway as too distinct to be educated together. The law entrusts to these committees its subject thousands, saying, “Educate these.” It recognizes the arrangements which age and sex, health, &c., render necessary, but its very purpose is to melt and fuse together all races and classes, so far as a public education is concerned.

We shall not enlarge on this point, but we merely add that every possible argument legal or otherwise, which can be urged in favor of separate schools for colored children, applies with tenfold force in favor of all the schemes we have imagined above, and pre-eminently so to one which shall separate the sects.

Mr. Chandler endeavors to make a distinction between the case of Boston and other places in the commonwealth, from the fact that they are districted, and we, strictly speaking, are not. The distinction is rather apparent than real. It would not be very difficult to show that the only difference between the two cases, namely, separate taxation, enters *in fact* as much into our system as theirs, and that the holding of separate schools here entails as *real* injustice on the colored taxpayer, as if his school tax was a distinct item.

But the decisions of our Supreme Court, which he cites to another point, establish the principle that "districts must be geographical," and that "certain individuals cannot be selected and set set off by themselves, as a district." Did the Solicitor ever ask himself, why not? If he had, he would have seen that the reason and ground of these decisions covered the state of things in Boston as fully as if we were laid out into districts. The ground and reason of these decisions evidently is, that to allow any other rule would promote the growth of caste and favored classes; that some rich, active or favored few would then reap from an institution designed to be common, advantages which *law* could not rightfully help them to; that by keeping the seats of these little republican temples equally open to all whom Providence had thrown together in cities and towns, the anxiety of wealth for the advantages of its child would draw into its own sunshine the child of its less favored neighbor, and thus secure the efficiency of that equal public instruction, in which alone the real interest of the community in its schools consists. When any other rule is tolerated, New England loses the gem, the keystone of her admirable school system, which the experience of two centuries has sanctioned, and which she enjoys the distinguished honor of having originated. If Mr. Chandler's opinion, on the contrary, be law, there is no reason whatever why the courts should not have permitted a number of families in any town to club together and be set off as a district. Their case and that of persons separated on account of race and color are precisely parallel. We claim then, as on our side the only cases to



which Mr. Chandler alludes and the only one upon which the court has even adjudicated.

(If it be a fact that the best interests of the white and colored children can only be secured by separate schools, then the best interests *cannot* be secured under any system of public State instruction. We must give up the theory, and the must, from the nature of the case, resort to private schools. This is the basis of Mr. Mann's argument on the relation of our various sects to the public schools. The thing sought may be good, but if obtained, must be obtained elsewhere than through such a system of *common and free* schools as our laws contemplate.

We cannot close without expressing our conviction, derived from the wording of Mr. Chandler's opinion, that, in his hearing, he disapproves the odious system for which his aid was invoked. We hope we do not give him, in this instance, too much credit; and only wish that he had been able to rise above the prejudices of his associates, and do justice to the law which he professes to have studied. As a member of an honorable profession, and the incumbent of an hitherto honorable office, he should have remembered that his words were to have more weight than when he merely catered to a corrupt public sentiment in the legislature, and he should have seen to it that they were made worthy of that influence and weight. Mr. Chandler has said and done many things which as a wise, if not an honest man, he will have ample cause to regret, but the weakest act of all was when he suffered himself to be made the tool of a few narrow-minded and prejudiced men.

WENDELL PHILLIPS.

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